

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOSEPH ZLOZA,

Plaintiff,

v.

CHICAGO BRIDGE AND IRON, et al.,

Defendants.

CASE No. 1:23-cv-748

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Berens' Report and Recommendation (ECF No. 6) and Plaintiff's Objection to the Report and Recommendation (ECF No. 7).<sup>1</sup> Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

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<sup>1</sup> Plaintiff's Objections were unsigned, and on August 1, 2023, the Court entered an Order requiring Plaintiff to file a signature page within 21 days. Plaintiff has since timely filed a signature page. (ECF No. 9). Thus the Court considers Plaintiff's Objections, however as further set out below, they fail to meaningfully address the Magistrate Judge's analysis.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objections. After its review, the Court finds the Magistrate Judge's Report and Recommendation is factually sound and legally granted.

Plaintiff was permitted to proceed *in forma pauperis*. (ECF No. 4). After conducting the requisite review under 28 U.S.C. § 1915(e)(2), the Magistrate Judge recommends dismissing Plaintiff's Complaint for failure to state a claim upon which relief can be granted. The Magistrate Judge carefully and thoroughly considered the record and the governing law. The Magistrate Judge properly analyzed Plaintiff's claims. Nothing in Plaintiff's Objections changes the fundamental analysis.

**ACCORDINGLY, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge (ECF No. 6) is **APPROVED AND ADOPTED** as the opinion of the Court.

**IT IS FURTHER ORDERED** that Plaintiff's complaint is dismissed with prejudice for failure to state a claim.

**IT IS FURTHER ORDERED** that this matter is **TERMINATED**.

The Court discerns no good-faith basis for appeal of this matter. *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997); 28 U.S.C. § 1915(a)(3).

Dated: August 17, 2023

/s/ Robert J. Jonker  
ROBERT J. JONKER  
UNITED STATES DISTRICT JUDGE